

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DYLAN R. FOOTE,

Plaintiff,

v.

EL DORADO SHERIFF'S
DEPARTMENT, et al.,

Defendants.

No. 2:23-cv-00938-EFB (PC)

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a county jail inmate, proceeds without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On October 30, 2023, the court screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A. ECF No. 11. The court dismissed the complaint for failure to state a claim and granted plaintiff thirty days in which to file an amended complaint to cure the deficiencies. *Id.* The screening order warned plaintiff that failure to comply could result in a recommendation that this action be dismissed. The time for acting has now passed and plaintiff has not filed an amended complaint or otherwise responded to the court's order.¹ Thus, it appears that plaintiff is unable or

¹ Although it appears from the file that plaintiff's copy of the order was returned, plaintiff was properly served. It is the plaintiff's responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the

1 unwilling to cure the defects in the complaint.

2 Accordingly, it is ORDERED that the Clerk of Court randomly assign a district judge to
3 this action.

4 Further, it is RECOMMENDED that this action be DISMISSED without prejudice for the
5 reasons stated in the October 30, 2023 screening order, and that plaintiff's pending motion (ECF
6 No. 10, requesting subpoenas) be denied as moot.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
12 objections shall be served and filed within fourteen days after service of the objections. The
13 parties are advised that failure to file objections within the specified time may waive the right to
14 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
15 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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17 Dated: February 5, 2024


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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party is fully effective.